



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

URGENT LEGAL MATTER -- PROMPT REPLY NECESSARY
VIA FAX CONFIRMATION COPY VIA FIRST CLASS MAIL

September 3, 1993

The Honorable Rosemary S. Tierney

The City Council of New Bedford

City Hall
130 William Street
New Bedford, MA 02740

Re: New Bedford Harbor Superfund Site Request for Access

Dear Ladies and Gentlemen:

This letter is an addendum to my recent letter to you dated September 1, 1993. In that letter we requested that you promptly reverse the decision on the street opening permit, repeal the new ordinance, and facilitate EPA's access by granting any other permit that may be sought by EPA, its agents, or representatives in connection with site response activities. We also asked that you notify us no later than September 10, 1993, that the requested action had been taken.

We are now writing you to request that the notice be delivered in writing to my office not later than 11:00 AM on September 10, 1993. You should be aware that we are prepared to issue an access order under section 104 of CERCLA on September 10, 1993, in the event that we have not received the requested notification letter from you.

The order will provide you an opportunity to confer with EPA on September 13, 1993, on any matter pertinent to it, including its applicability, the factual findings and the determinations upon which it is based, the appropriateness of any actions which you will be ordered to take, or any other relevant and material issues or contentions you may have regarding the order. However, the conference will not be an adversarial proceeding and will not be part of any proceeding to enforce or challenge the order. The conference will be from 10:00 AM until 12:00 at:

EPA Region I
One Congress Street
Boston, MA 02203

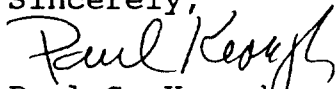
The order will indicate who should be contacted to request a conference and that the request must be made by 5:00 PM on September 10, 1993.



We hope that it will not be necessary to issue any order and to hold any conference. Nonetheless, should these events be necessary, and it should it become clear that you do not intend to comply, we will ask the Department of Justice to petition the federal district court for the appropriate relief on September 14, 1993.

Again, if you have any questions, I would be happy to discuss this matter with you. I can be reached at (617) 565-3402.

Sincerely,



Paul G. Keough
Acting Regional Administrator

cc Suzanne Lacampagne US DOJ
Gayle Garman EPA
Mark Lowe EPA
Paul Craffey MA DEP